

Short Title: Update Filing of Bankr'cy Orders/State Courts.

A BILL TO BE ENTITLED

AN ACT TO **UPDATE** THE PROCEDURES TO BE FOLLOWED WHEN FILING CERTAIN
BANKRUPTCY COURT ORDERS [WITH THE CLERK OF SUPERIOR COURT] [IN
THE OFFICES OF THE CLERK OF SUPERIOR COURT THROUGHOUT THIS STATE].

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 1-245 reads as rewritten:

**"§ 1-245. ~~Cancellation of judgments discharged through bankruptcy proceedings.~~ Notice of
bankruptcy court orders placed in judgment record.**

~~When a referee in bankruptcy furnishes the clerk of the superior court of any county in this
State a written statement or certificate to the effect that a bankrupt has been discharged, indicating
in said certificate that the plaintiff or judgment creditor in whose favor judgments against the
defendant bankrupt are docketed in the office of the clerk of the superior court have received due
notice as provided by law from the said referee, and that said judgments have been discharged,
it shall be the duty of the clerk of the superior court to file said certificate and enter a notation
thereof on the margin of said judgments.~~

~~This section shall apply to judgments of this kind already docketed as well as to future
judgments of the same kind.~~

(a) When a person furnishes the clerk of superior court of any county in this State a
certified copy of an order from the United States Bankruptcy Court that does any of the following:

(1) Grants a discharge to a debtor in bankruptcy,

(2) Avoids a judicial lien in whole or in part,

then the clerk shall (i) file the order in any civil action or special proceeding where judgment has
been entered against the debtor and (ii) enter an appropriate notation on the margin of the
judgments affected.

[possible alternative structures for subsection (a):

I.

(a) When a person furnishes the clerk of superior court of any county in this State a certified copy of an order from the United States Bankruptcy Court that grants a discharge to a debtor in bankruptcy, avoids a judicial lien in whole or in part, or both, then the clerk shall take all the following steps:

(1) File the order in any civil action or special proceeding where judgment has been entered against the debtor.

(2) Enter an appropriate notation on the margin of the judgments affected.

II.

(a) A person may furnish the clerk of superior court of any county in this State a certified copy of an order from the United States Bankruptcy Court that does any of the following:

(1) Grants a discharge to a debtor in bankruptcy.

(2) Avoids a judicial lien in whole or in part.

(b) After receiving an order under subsection (a) of this section, the clerk shall take all the following steps:

(1) File the order in any civil action or special proceeding where judgment has been entered against the debtor.

(2) Enter an appropriate notation on the margin of the judgments affected.

(in this alternative, existing (b) will need to become (c)).

III.

(a) When a person furnishes the clerk of superior court of any county in this State a certified copy of an order from the United States Bankruptcy Court that meets the requirements of this subsection, then the clerk shall (i) file the order in any civil action or special proceeding

1 where judgment has been entered against the debtor in bankruptcy and (ii) enter an appropriate
2 notation on the margin of the judgments affected. To be filed under this section, an order must
3 do one or more of the following:

4 (1) Grant a discharge to the debtor.

5 (2) Avoids a judicial lien in whole or in part.]

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7
8 (b) The filing of an order and the notation by the clerk pursuant to this section are for
9 notice purposes only. [need provision re: clerks?] The effect of the order is governed by Title
10 11 of the United States Code and other applicable federal law."

11 **SECTION 2.** This act becomes effective October 1, 2020.